

CONFIDENTIAL
WEEKLY HOT TOPICS REPORT for RA/DRA Region 8
Week ending November 16, 2018

OFFICE OF ECOSYSTEMS PROTECTION AND REMEDIATION

HOT ISSUES AND IMPORTANT DEADLINES:

LAST WEEK

Asbestos Drinking Water Main Broken at Turtle Mountain Indian Reservation

Key Message: An asbestos drinking water main was broken at the Barnesville Housing Development within the Turtle Mountain Indian Reservation, Belcourt, ND.

- Asbestos containing materials (ACM) were detected in the water main that ruptured on October 26, 2018 within the Barnesville Housing Development on the Turtle Mountain Indian Reservation.
- The RA visited the Barnesville Housing Development Brownfields project in May 2018.
- The EPA Safe Drinking Water Program provided technical assistance to the Tribe and the R8 Brownfields program regarding protocol for drinking water asbestos sampling and analysis. The MCL for asbestos is 7 million fibers/liter longer than 10 microns.
- The Drinking Water Program consulted with ND Drinking Water Program to identify the closest certified lab (EMSL lab in Minnesota) that can test for asbestos using an EPA approved drinking water method.
- Results of the drinking water analysis are pending.
- The Safe Drinking Water Program and the Assessment and Revitalization Program will continue to coordinate work on this project to ensure the public is informed of any possible drinking water concerns.
- Contacts: Ted Lanzano, 8EPR-AR, 312-6596; Bob Clement, 8WP-SDB, 312-6653

OFFICE OF ENFORCEMENT, COMPLIANCE & ENVIRONMENTAL JUSTICE

HOT ISSUES AND IMPORTANT DEADLINES:

SDWA Enforcement Issued an Administrative Order to Chippy's Kitchen LLC and Wilson Hardware, Inc., as owners/operators of the Chippy's Catering/Wilson Hardware Public Water System located in Teton County, Wyoming

Key Message: On November 14, 2018, R8 issued the SDWA order alleging failure to correct a significant deficiency by August 2018, failure to monitor total coliform bacteria in August, November, and December 2017, and failure to notify the EPA of violations. The order requires the System to monitor as required by the regulations and make the necessary corrective actions to address the significant deficiency.

- The system serves approximately 45 individuals daily.
- EPA is taking this action because the state does not have delegation.
- Technical Contact: Christina Carballal-Broome, 312-6046; Management Contact: Tiffany Cantor, 312-6521

SDWA Enforcement Issued an Administrative Order to Leisure Valley, Inc., as owner/operator of the Star Valley RV Public Water System located in Lincoln County, Wyoming

Key Message: On November 14, 2018, R8 issued the SDWA order alleging failure to timely complete corrective actions of significant deficiencies since December 2017, failure to deliver annual consumer

confidence report (CCR) in 2017, failure to notify the EPA of the violations, failure to monitor for volatile organic contaminants, as well as failure to monitor for lead and copper in 2017. The order requires the System to monitor as required by the regulations, complete corrective action of one remaining significant deficiency, deliver and certify a 2017 CCR, and notify the EPA of any future violations.

- The system serves approximately 100 year-round residents and an average of approximately 333 transient individuals daily.
- EPA is taking this action because the state does not have delegation.
- Technical Contact: Olive Hofstader, 312-6467; Management Contact: Tiffany Cantor, 312-6521

OPA Enforcement Unit plans to send a Warning Letter to Mountain View Cenex in St. Ignatius, Montana on the Flathead Reservation for failing to address SPCC deficiencies

Key Message: OPA Enforcement is sending a warning letter to Mountain View Cenex for failing to address Spill Prevention Control and Countermeasure (SPCC) Plan deficiencies identified during a June 28, 2018 SPCC inspection.

- During the inspection, the facility did not have an SPCC plan, had not been conducting integrity testing on its tanks, was not conducting inspections, had not trained employees on spill response, and was using improper pipeline supports.
- OPA Enforcement staff had two conversations with the owner and their professional engineer on August 1 and 6, 2018 concerning the alleged deficiencies. On August 7, 2018, EPA sent the owner a copy of the SPCC Inspection Checklist. On September 25, 2018, EPA sent an e-mail to the owner and their professional engineer requesting an update on the facility technical corrections and requesting the SPCC Plan and tank integrity test report. The facility has been unresponsive since August 6, 2018.
- The warning letter requests a response to the deficiencies.
- The EPA directly implements the OPA program.
- Technical Contact: Donna K. Inman, 312-6201; Management Contact: Stephanie DeJong 312-6362

OPA Enforcement plans to send Request for Information to Anadarko Minerals, Inc. for a discharge in Valley County, Montana on the Fort Peck Reservation

Key Message: OPA Enforcement is sending a Request for Information to Anadarko Minerals, Inc. for a discharge of at least 450 barrels (bbls) of crude oil and 55,000 bbls of produced water from a flow line into an unnamed tributary of Little Porcupine Creek in Valley County, Montana, on the Fort Peck Reservation.

- On April 27, 2018, the discharge was reported to the National Response Center.
- On May 3, 2018, the On-Scene Coordinator issued a Section 311(c) Clean-up Order, CWA-08-2018-0008 and a Notice of Federal Interest. The clean-up of the discharge is nearing completion.
- OPA Enforcement is issuing this Request for Information to gather information to determine the extent of the discharge (including actual quantities discharged and the possible impact of the waters of the U.S. and/or its tributaries), the environmental harm resulting from the discharge, and the status of the spill clean-up.
- The EPA directly implements the OPA program.
- Contact: Donna K. Inman, 312-6201; Legal Contact: Chuck Figur 312-6915; Management Contact: Stephanie DeJong 312-6362

City of Colorado Springs Found to be in Violation of its MS4 Permit in United States et al. V. City of Colorado Springs

Key Message: On November 9, 2018, the United States District Court for the District of Colorado ruled that the City of Colorado Springs violated its Clean Water Act Municipal Separate Storm Sewer System Permit by:

- 1) Granting waivers for permanent stormwater controls at a residential development that did not meet permit requirements;
 - 2) Failing to provide adequate oversight and enforcement at an active construction site; and
 - 3) Approving the design and installation of an Extended Detention Basin that did not meet permit requirements, and consequently failed to ensure adequate long-term operation and maintenance of this Extended Detention Basin.
- The Court found violations at each of the three exemplar sites that were the subject of the trial. This is the first such case to be tried before a District Court and will serve as an important precedent to other municipalities.
 - Technical Contact: Michael Boeglin, 312-6250, Legal Contacts: Lauren Hammond, 312-7081 and Laurianne Jackson, 312-6950

OFFICE OF PARTNERSHIPS AND REGULATORY ASSISTANCE

No report

OFFICE OF TECHNICAL AND MANAGEMENT SERVICES

No report

OFFICE OF WATER PROTECTION

HOT ISSUES AND IMPORTANT DEADLINES:

North Dakota 1422 UIC Primacy Revision Rulemaking for Standing Up New Department of Environmental Quality

Key Message: The AA/OW concurred this week on the Propose Rule Federal Register Notice package for approving lead UIC agency transfer to the new ND DEQ. This package has been sent to the Administrator's Office and signature is anticipated as early as this Friday, November 16.

- In working with OGWDW, we project Administrator signature of the Final Rule by February 5, 2019, and a federally effective date of March 15, 2019.
- Region 8 is providing an updated schedule to the State of projected milestones and dates for approving this agency transfer of authority as part of a larger effort to move all ND programs to the new Department in March 2019.
- Contact: Douglas Minter, 312-6079

Climax Molybdenum's Request for EPA Assistance Re: Colorado's Molybdenum Water Quality Standard

Key Message: Climax's October 12, 2018 letter to the Regional Administrator requests that EPA Headquarters update the draft health advisory for molybdenum and urge the Agency for Toxic Substances and Disease Registry (ATSDR) to complete its toxicological profile for molybdenum. This request from Climax is directly linked to 2 different Colorado water quality standard (WQS) reviews.

- Climax seeks EPA's help in finalizing a toxicological risk assessment for molybdenum that is needed to complete a Colorado WQS rulemaking initiated last year and now scheduled to be completed next year.
- Climax proposed in 2017 that Colorado revise the statewide WQS for molybdenum (210 µg/L). The rulemaking was continued until November of 2019, and the molybdenum temporary modification to the water quality standards assigned to Tenmile Creek where Climax Mine discharges was extended until June of 2020. EPA approved this extension on November 2, 2018.
- Several parties including Denver Water have expressed concerns about high concentrations of molybdenum discharged by the Climax Mine.

Deliberative Process / Ex. 5

- Contact: Dave Moon, 312-6833; Sandra Spence 312-6947

EPA Region 8 Drinking Water Program Discussed Corrosion Control Treatment Variance with Denver Water and Colorado Department of Public Health and Environment (CDPHE) on November 13, 2018

Key Message: The Region 8 Drinking Water Program met with Denver Water, its consultant and CDPHE to discuss the possibility a of a Safe Drinking Water Act treatment technique variance in place of the CDPHE-designated optimal corrosion control treatment (OCCT) of orthophosphate under the Lead and Copper Rule.

- The components of a variance proposal from Denver Water were discussed, and the need to demonstrate an approach as effective as the designated OCCT of orthophosphate, as well as the use of a Point of Use Filter program to achieve this equivalence.
- Region 8 committed to reaching out to the EPA Office of Research Development to identify any existing data on OCCT for copper with lead solder as the primary source of lead.
- The group will reconvene in two weeks to hear from Denver Water on what they will consider in their proposal. We do not have an anticipated date on the submittal of a final proposal.
- Contact: Angelique Diaz, 312-6344; Sarah Bahrman, 312-6243

Region 8 employees with expertise in produced water, CWA discharge permitting, and oil and gas development will attend a produced water conference November 15-16 in Santa Fe, New Mexico

Key Message: The New Mexico Produced Water Conference “Policy, Regulations and Economics to Support Total Resource Recovery” will focus on current and potentially available produced water treatment approaches and policy challenges associated with management of produced water from oil and gas extraction.

- Region 8 attendees include staff assisting the Office of Science and Technology with a national produced water study reviewing available approaches to manage wastewater from oil and gas extraction and staff working with the Ute Mountain Ute Tribe (UMUT), where energy development is occurring in the New Mexico portion of the reservation. UMUT is currently evaluating options regarding oil field waste management, including produced/formation water discharging to the surface from historic production wells in this field.
- Insight from the conference will be essential to R8 as oil and gas operators in the region seek to manage their produced water via current options (such as discharge) and new possible management practices (direct irrigation, water supply, etc.) which are under discussion nationally and regionally.
- Contact: Karen Hamilton, 312-6236

On November 13, 2018, Region 8 submitted staff-level comments to the Army Corps of Engineers (Corps) project manager on a mitigation plan required for Clean Water Act permitting for impacts associated with a highway project in Utah

Key Message: The construction of the West Davis Corridor project, located north of Salt Lake City, Utah, will affect wetlands of the eastern shore of the Great Salt Lake, a vitally important aquatic resource to the western hemisphere. Mitigation for the impacts is essential to avoid significant degradation of the eastern shore of the Great Salt Lake so that the project meets Clean Water Act regulatory requirements.

- During 2018, the Corps facilitated discussions among the EPA, the US Fish and Wildlife Service (USFWS) and the Utah Department of Transportation to develop a mitigation plan that meets regulatory requirements for the Clean Water Act permit needed to construct the project.
- Comments on the mitigation plan, which was submitted by the Utah Department of Transportation (UDOT) to the Corps in mid-October 2018, focus on recommendations to solidify: site protection instruments; determination of credits; and the mitigation, maintenance, and hydrology plans.
- The USFWS submitted comments on the mitigation plan that focused on the extent of impacts to wildlife resources and mitigation for those impacts.
- Several of the EPA comments are similar to those made on an earlier draft of the plan because responses to the earlier comments were not developed by UDOT, leaving questions unaddressed in the revised mitigation plan.
- Contact: Karen Hamilton, 312-6236

Region 8 Water Program Plans to Meet with Town of Afton, Wyoming and Wyoming DEQ Regarding Afton's Periodic Spring Source of Drinking Water

Key Message: The EPA will be meeting with the Town of Afton and Wyoming DEQ to discuss steps to protect the integrity of the Town of Afton's Periodic Spring water supply, and the quality of the spring water provided to the public.

- A principal source of community water supply for the Town of Afton is the Periodic Spring, which is a geologic phenomenon that flows periodically and attracts tourists to the Town.
- After coordinating with Wyoming DEQ, EPA Region 8 issued a letter to Afton on October 3, 2018, outlining concerns and required next steps to ensure public health protection of the water supply.
- On November 7, 2018, Wyoming DEQ notified Region 8 that Afton had concerns with some of the requirements in EPA's letter and would like to meet with EPA and DEQ to discuss. The principal concern was the requirement to submit a plan within 60 days for installing a sampling station for measuring the turbidity of the Spring's water.
- EPA Region 8 contacted Afton and, at the Town's request, granted a suspension of the 60-day deadline to allow the parties to meet. EPA is now working to schedule that meeting.
- Senator Barrasso from Wyoming has expressed interest in this issue and requests periodic updates from EPA.
- Contact: Lisa Kahn, 312-6896